

RESOLUTION R2024-__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, UPDATING BACKFLOW PREVENTION DEVICE TESTING FEES AND AUTHORIZING THE CITY MANAGER TO REIMBURSE WATER CUSTOMERS TO THE EXTENT THEY PAID A HIGHER FEE AMOUNT FOR BACKFLOW PREVENTION DEVICE TESTING BETWEEN APRIL 2023 AND THE EFFECTIVE DATE OF THIS RESOLUTION.

WHEREAS, the City Council has previously established the amounts of City Charges, and authorized City staff to administratively assemble those City charges in the Master Fee Schedule, pursuant to a series of City Council resolutions, including the most recent Resolution R2021-105 adopted on October 19, 2021; and

WHEREAS, the Utilities Department manages the Cross-Connection Compliance Program, wherein pursuant to California Code of Regulations Title 17 backflow prevention devices are required to be tested annually by the customer receiving water service from the City; and

WHEREAS, if after three notices by the City a backflow device remains untested by the customer receiving water service, the City tests the device and charges the person a fee pursuant to the Master Fee Schedule; and

WHEREAS, in the last update of the Master Fee Schedule in 2021, the Backflow Prevention Device Testing fee was calculated based on City staff performing the testing and two fees were determined – one for inside the City limits and one for outside the City limits which was higher based on the staff time to travel a greater distance; and

WHEREAS, in April of 2023, the Utilities Department entered into a contract with a backflow testing contractor to perform the tests rather than City staff; and

WHEREAS, the cost of testing by the contractor is based on the size of the backflow device being tested instead of the location where the test occurs; and

WHEREAS, those water customers charged the Backflow Prevention Device Testing fee contained in the current Master Fee Schedule after April of 2023 were charged a fee higher than the actual cost to the City based on the change to an outside testing contractor; and

WHEREAS, City staff recommend that the City Council authorize an update to the Backflow Prevention Device Testing fee to reflect the City's actual and estimated reasonable costs of the noticing and testing of backflow prevention devices when the water customer fails to test their own device as required by State law, and not exceed the estimated reasonable costs of providing the service; and

ATTACHMENT 1

WHEREAS, City staff recommends that the City Council authorize the City Manager or designee to reimburse any water customer who paid a Backflow Prevention Device Testing fee between April 2023 and the effective date of this resolution based on the difference between the actual amount paid and the applicable proposed fee amount, based on backflow prevention device size, in the amount set forth in the column labeled "Difference" as shown in Exhibit "B", attached hereto and incorporated herein by reference; and

WHEREAS, the Utilities Director has determined that the actions authorized by this resolution are exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c) and 15309; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Napa, as follows:

1. The City Council hereby finds that the facts set forth in the recitals to this Resolution are true and correct, and establish the factual basis for the City Council's adoption of this Resolution.

2. The City Council hereby finds that each of the fees approved pursuant to this Resolution is not a "tax", as defined by California Constitution Article XIII C, Section 1(e), since each fee meets the definition for one or more "Fee Category" as described herein. Each fee identified on a row of Exhibit "A", attached hereto and incorporated herein by reference, has a column labeled "Fee Category" which corresponds to the relevant definition of California Constitution Article XIII C, Section 1(e), as follows:

Fee Category "3" is Section 1(e)(3): a charge imposed for the reasonable regulatory costs to a local government for ... performing investigations, inspections, and audits... and the administrative enforcement and adjudication thereof."

3. The City Council hereby finds that the fee amounts identified on Exhibit "A" attached hereto and incorporated herein by reference: (a) represent the estimated reasonable costs incurred by the City in providing the services for which the fees are imposed; (b) are no more than necessary to cover the reasonable costs of the City's activity; and (c) the manner in which those costs are allocated to each customer bear a fair and reasonable relationship to the customer's burdens on, or benefits received from, the City's activity.

4. The City Council hereby approves each fee identified as a "proposed" fee on Exhibit "A".

ATTACHMENT 1

5. The City Council hereby authorizes the City Manager or designee to reimburse any water customer who paid a Backflow Prevention Device Testing fee between April 2023 and the effective date of this resolution in the amount set forth in the applicable column labeled "Difference" as shown on Exhibit "B," attached hereto and incorporated herein by reference. The amount of each reimbursement will be as set forth under the applicable column labeled "Difference" based on the applicable Current Fee amount (2023 or 2024), and applying the corresponding row based on "Inside City Limits" or "Outside City Limits," and based on the size of the applicable backflow prevention device being tested (3/4", 1", 1 1/2" and larger).

6. The City Council hereby authorizes the City Manager and the Finance Director to implement the fee changes authorized by this Resolution by: (a) administratively organizing and publishing the fees in a Master Fee Schedule, and (b) applying the "Legend for Implementing the Master Fee Schedule (as defined by Council Resolution R2021-105) to the fees.

7. This Resolution shall take effect immediately upon its adoption.

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City Council of the City of Napa at a public meeting of said City Council held on the 16th day of April, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____

Tiffany Carranza
City Clerk

Approved as to form:

Michael W. Barrett
City Attorney